

MANDATE

S.D.N.Y.-N.Y.C.
12-cv-4086
94-cr-466
Keenan, J.

United States Court of Appeals FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 24th day of July, two thousand thirteen.

Present:

Reena Raggi,
Richard C. Wesley,
*Circuit Judges.**

**USDC SDNY
DOCUMENT
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DOC #:** _____
DATE FILED: September 18, 2013

Franklin Grullon,

Petitioner-Appellant,

v.

13-1243

United States of America,

Respondent-Appellee.

Appellant, *pro se*, moves for a certificate of appealability and an extension of time to file his motion for a certificate of appealability. Upon due consideration, it is hereby ORDERED that the motions are DENIED as unnecessary. Despite the Court's April 23, 2013 order, a certificate of appealability is not required for a federal prisoner to appeal from the denial of a petition for a writ of error *coram nobis*. See 28 U.S.C. § 2253(c)(1). It is further ORDERED that the appeal is DISMISSED because it lacks an arguable basis in law or fact. See *Pillay v. INS*, 45 F.3d 14, 17 (2d Cir. 1995) (finding that

* The Honorable Debra Ann Livingston recused herself from consideration of this motion. Pursuant to Second Circuit Internal Operating Procedure E(b), the matter is being decided by the two remaining members of the panel.

MANDATE ISSUED ON 09/18/2013

this Court has the “inherent authority . . . to dismiss an appeal . . . as frivolous when the appeal . . . presents no arguably meritorious issue for [the Court’s] consideration”); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (defining when an action lacks an arguable basis in law or fact).

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court

The block contains a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal has a red outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom. Inside the ring, the words "SECOND CIRCUIT" are written in blue. There are two small blue stars on either side of the text "SECOND CIRCUIT".

A True Copy

Catherine O’Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

This block is identical to the one above, featuring the same handwritten signature "Catherine O'Hagan Wolfe" over the same official seal of the United States Court of Appeals, Second Circuit.